Priddis Music, Inc. v. Trans World Entertainment Corporation Doc. 31

McNamee, Lochner, Titus & Williams, P.C.

ATTORNEYS AT LAW

KENNETH L. GELLHAUS
Direct Dial
(518) 447-3370
Direct Fax
(518) 447-3336
gellhaus@mltw.com

February 23, 2006

Hon. David R. Homer
United States Magistrate
District Court - Northern District of New York
James T. Foley Court House
Room 441
445 Broadway
Albany, New York 12207

Re: Priddis Music, Inc. v. Trans World Entertainment Corp.
No. 05-CV-491 (DNH/DRH)

Your Honor:

This letter is submitted by my office, after consultation with defendant's counsel with respect to the content thereof in response to the court's request for an update with respect to this litigation.

DISCOVERY CONDUCTED TO DATE

In connection with the Initial Disclosures pursuant to F.R.C.P. 26(a)(1), plaintiff Priddis Music, Inc. ("Priddis") served numerous (4 banker boxes) documents on defendant's counsel in January. Plaintiff received today a folder with defendant's initial document disclosure. Defendant served on Priddis a First Request for Interrogatories and Document Requests in late January, to which answers are expected on or before February 27, 2006. The parties agreed last week to a confidentiality agreement, which defendant's counsel submitted to the court yesterday.

ADDITIONAL DISCOVERY EXPECTED TO BE CONDUCTED

Defendant expects to produce additional documents to Priddis. Additionally, defendant expects to serve additional interrogatories and Requests for Admissions. Priddis will be serving additional Interrogatories and Document Requests to defendant.

Inasmuch as defendant's have just served its initial document disclosure, the parties are engaged in a discussion concerning joint consent to a motion to expand by thirty (30) days the deadline for identification of experts.

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STATUS OF SETTLEMENT DISCUSSIONS TO DATE

In accordance with the Uniform Pretrial Scheduling Order issued in this matter, the parties have selected James T. Potter, Esq. to mediate the parties' dispute. Due to prior scheduling conflicts, the mandatory mediation is currently scheduled to take place on March 15, 2006 at 11:00 a.m. at the offices of Hinman, Straub, P.C., 121 State Street, Albany, New York 12207. The parties are submitting short letter-briefs outlining their respective positions prior to the mediation date.

I have been informed by counsel to the defendant that, until further discovery has been accomplished by both sides, it is premature to engage in serious settlement discussions. Should we encounter difficulty in procuring responses to discovery in a timely fashion, we will seek the court's immediate assistance as suggested by your letter.

Respectfully yours,

Kenneth L. Gellhaus

KLG:cad
cc: J. Matthew Donohue, Esq.
Priddis Music, Inc.